

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL NO. 1:14CR86-1
(Judge Keeley)

TIMOTHY WAYNE FERRELL, JR.,

Defendant.

ORDER ACCEPTING AND ADOPTING MAGISTRATE JUDGE'S
OPINION/REPORT RECOMMENDATION CONCERNING PLEA OF
GUILTY IN FELONY CASE AND SCHEDULING SENTENCING HEARING

On December 23, 2014, defendant, Timothy Wayne Ferrell, Jr. ("Ferrell"), appeared before United States Magistrate Judge John S. Kaull and moved for permission to enter a plea of GUILTY to Counts Four and Forty-Nine of the Indictment. Ferrell stated that he understood that the magistrate judge is not a United States District Judge, and consented to pleading before the magistrate judge. This Court had referred the guilty pleas to the magistrate judge for the purposes of administering the allocution pursuant to Federal Rule of Criminal Procedure 11, making a finding as to whether the pleas were knowingly and voluntarily entered, and recommending to this Court whether the pleas should be accepted.

Based upon the government's proffer establishing that an independent factual basis for the pleas existed, the magistrate judge found that Ferrell was competent to enter the pleas, that the pleas were freely and voluntarily given, that he was aware of the

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nature of the charges against him and the consequences of his pleas, and that a factual basis existed for the tendered pleas. On December 24, 2014, the magistrate judge entered an Opinion/Report and Recommendation Concerning Plea of Guilty in Felony Case ("R&R") (dkt. no. 63) finding a factual basis for the pleas and recommended that this Court accept Ferrell's pleas of guilty to Counts Four and Forty-Nine of the Indictment.

The magistrate judge also directed the parties to file any written objections to the R&R within fourteen (14) days after service of the R&R. The magistrate judge further directed that failure to file objections would result in a waiver of the right to appeal from a judgment of this Court based on the R&R. On January 9, 2015, the government, by Assistant United States Attorney Shawn A. Morgan ("Morgan"), responded to the R&R stating the government had no objection (dkt. No. 84). Ferrell did not file any objections.

Accordingly, this Court **ADOPTS** the magistrate judge's R&R, **ACCEPTS** Ferrell's guilty pleas, and **ADJUGES** him **GUILTY** of the crimes charged in Counts Four and Forty-Nine of the Indictment.

Pursuant to Fed. R. Crim. P. 11(e)(2) and U.S.S.G. § 6B1.1(c), the Court **DEFERS** acceptance of the proposed plea agreement until it

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has received and reviewed the presentence report prepared in this matter.

Pursuant to U.S.S.G. § 6A1 et seq., the Court **ORDERS** as follows:

1. The Probation Officer undertake a presentence investigation of **TIMOTHY WAYNE FERRELL, JR.**, and prepare a presentence report for the Court;

2. The Government and Ferrell are to provide their versions of the offense to the probation officer by **January 23, 2015**;

3. The presentence report is to be disclosed to Ferrell, defense counsel, and the United States on or before **March 10, 2015**; however, the Probation Officer is not to disclose the sentencing recommendations made pursuant to Fed. R. Crim. P. 32(e)(3);

4. Counsel may file written objections to the presentence report on or before **March 24, 2015**;

5. The Office of Probation shall submit the presentence report with addendum to the Court on or before **April 8, 2015**; and

6. Counsel may file any written sentencing statements and motions for departure from the Sentencing Guidelines, including the

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factual basis from the statements or motions, on or before
April 22, 2015.

The magistrate judge remanded Ferrell to the custody of the
United States Marshal Service.

The Court will conduct the sentencing hearing for the
defendant on **Monday, April 27, 2015 at 2:30 P.M.** at the **Clarksburg,
West Virginia** point of holding court.

It is so **ORDERED.**

The Clerk is directed to transmit copies of this Order to
counsel of record, the defendant and all appropriate agencies.

DATED: January 9, 2015

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE